

- C. ☐ Plant application  
(\$480.00—37 C.F.R. § 1.16(g))

Filing fee calculation

\$ \_\_\_\_\_

## 11. Assertion of Small Entity Status

☒ Applicant hereby asserts status as a small entity under 37 C.F.R. § 1.27

**NOTE:** 37 C.F.R. § 1.27(c) deals with the assertion of small entity status, whether by a written specific declaration thereof or by payment as a small entity of the basic filing fee or the fee for the entry into the national phase and states:

*“(c) Assertion of small entity status. Any party (person, small business concern or nonprofit organization) should make a determination, pursuant to paragraph (f) of this section, of entitlement to be accorded small entity status based on the definitions set forth in paragraph (a) of this section, and must, in order to establish small entity status for the purpose of paying small entity fees, actually make an assertion of entitlement to small entity status, in the manner set forth in paragraphs (c)(1) or (c)(3) of this section, in the application or patent in which such small entity fees are to be paid.*

*(1) Assertion by writing. Small entity status may be established by a written assertion of entitlement to small entity status. A written assertion must:*

*(i) Be clearly identifiable;*

*(ii) Be signed (see paragraph (c)(2) of this section); and*

*(iii) Convey the concept of entitlement to small entity status, such as by stating that applicant is a small entity, or that small entity status is entitled to be asserted for the application or patent. While no specific words or wording are required to assert small entity status, the intent to assert small entity status must be clearly indicated in order to comply with the assertion requirement.*

*(2) Parties who can sign and file the written assertion. The written assertion can be signed by:*

*(i) One of the parties identified in § 1.33(b) (e.g., an attorney or agent registered with the Office), § 3.73(b) of this chapter notwithstanding, who can also file the written assertion;*

*(ii) At least one of the individuals identified as an inventor (even though a § 1.63 executed oath or declaration has not been submitted), notwithstanding § 1.33(b)(4), who can also file the written assertion pursuant to the exception under § 1.33(b) of this part; or*

*(iii) An assignee of an undivided part interest, notwithstanding §§ 1.33(b)(3) and 3.73(b) of this chapter, but the partial assignee cannot file the assertion without resort to a party identified under § 1.33(b) of this part.*

*(3) Assertion by payment of the small entity basic filing or basic national fee. The payment, by any party, of the exact amount of one of the small entity basic filing fees set forth in §§ 1.16(a), (f), (g), (h), or (k), or one of the small entity basic national fees set forth in §§ 1.492(a)(1), (a)(2), (a)(3), (a)(4), or (a)(5), will be treated as a written assertion of entitlement to small entity status even if the type of basic filing or basic national fee is inadvertently selected in error.*

*(i) If the Office accords small entity status based on payment of a small entity basic filing or basic national fee under paragraph (c)(3) of this section that is not applicable to that application, any balance of the small entity fee that is applicable to that application will be due along with the appropriate surcharge set forth in § 1.16(e), or § 1.16(f).*

*(ii) The payment of any small entity fee other than those set forth in paragraph (c)(3) of this section (whether in the exact fee amount or not) will not be treated as a written assertion of entitlement to small entity status and will not be sufficient to establish small entity status in an application or a patent.”*

**WARNING:** 37 C.F.R. § 1.27(c)(4): "Assertion required in related, continuing, and reissue applications. Status as a small entity must be specifically established by an assertion in each related, continuing and reissue application in which status is appropriate and desired. Status as a small entity in one application or patent does not affect the status of any other application or patent, regardless of the relationship of the applications or patents. The refiling of an application under § 1.53 as a continuation, divisional, or continuation-in-part application (including a continued prosecution application under § 1.53(d)), or the filing of a reissue application, requires a new assertion as to continued entitlement to small entity status for the continuing or reissue application."

**WARNING:** "Small entity status must not be established when the person or persons signing the . . . statement can unequivocally make the required self-certification." M.P.E.P., § 509.03 (emphasis added).

(complete the following, if applicable)

- ☐ Status as a small entity was asserted in the prior application  
\_\_\_\_\_ / \_\_\_\_\_, filed on \_\_\_\_\_, from which benefit  
is being claimed for this application under:

35 U.S.C. § ☐ 119(e)  
☐ 120  
☐ 121  
☐ 365(c)

and which status as a small entity is still proper and asserted for this application.

- ☐ A copy of the written assertion of small entity filed in the prior application is included.

**NOTE:** A refund based on establishment of small entity status, of a portion of fees timely paid in full prior to establishing status as a small entity may only be obtained if an assertion under § 1.27(c) and a request for a refund of the excess amount are filed within three months of the date of the timely payment of the full fee. The three-month time period is not extendable under § 1.136. 37 C.F.R. § 1.28(a).

Filing Fee Calculation (50% of A, B or C above)

\$ 388.00

**12. Request for International-Type Search (37 C.F.R. § 1.104(d))**

(complete, if applicable)

- ☐ Please prepare an international-type search report for this application at the time when national examination on the merits takes place.

**13. Fee Payment Being Made at This Time**

☐ Not Enclosed

☐ No filing fee is to be paid at this time.

*(This and the surcharge required by 37 C.F.R. § 1.16(e) can be paid subsequently.)*

☒ Enclosed

☒ Filing fee \$ 388.00

☒ Recording assignment  
(\$40.00; 37 C.F.R. § 1.21(h))  
(See attached "COVER SHEET FOR  
ASSIGNMENT ACCOMPANYING NEW  
APPLICATION".) \$ 40.00

☐ Petition fee for filing by other than all the  
inventors or person on behalf of the inventor  
where inventor refused to sign or cannot be  
reached  
(\$130.00; 37 C.F.R. §§ 1.47 and 1.17(l)) \$ \_\_\_\_\_

☐ For processing an application with a  
specification in  
a non-English language  
(\$130.00; 37 C.F.R. §§ 1.52(d) and 1.17(k)) \$ \_\_\_\_\_

☐ Processing and retention fee  
(\$130.00; 37 C.F.R. §§ 1.53(d) and 1.21(l)) \$ \_\_\_\_\_

☐ Fee for international-type search report  
(\$40.00; 37 C.F.R. § 1.21(e)) \$ \_\_\_\_\_

**NOTE:** 37 C.F.R. § 1.21(l) establishes a fee for processing and retaining any application that is abandoned for failing to complete the application pursuant to 37 C.F.R. § 1.53(f) and this, as well as the changes to 37 C.F.R. §§ 1.53 and 1.78(a)(1), indicate that in order to obtain the benefit of a prior U.S. application, either the basic filing fee must be paid, or the processing and retention fee of § 1.21(l) must be paid, within 1 year from notification under § 53(f).

**Total fees enclosed** \$ 428.00

**14. Method of Payment of Fees**

☐ Attached is a ☒ check ☐ money order in the amount of \$ 428.00

☐ Authorization is hereby made to charge the amount of \$ \_\_\_\_\_

☐ to Deposit Account No. \_\_\_\_\_

☐ to Credit card as shown on the attached credit card information authorization form PTO-2038.

**WARNING:** Credit card information should not be included on this form as it may become public.

☐ Charge any additional fees required by this paper or credit any overpayment in the manner authorized above.

A duplicate of this paper is attached.